

Application Serial Number 10/533,728
Response to Office Action
Dated

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REMARKS / DISCUSSION OF ISSUES

Claims 1-7 are presented for further consideration. Unless indicated to the contrary, claims are amended for non-statutory reasons to delete European-style phraseology and reference numerals in the claims.

Claims 8-11 are cancelled without prejudice or disclaimer of their subject matter.

Rejections Under 35 U.S.C. § 103

Claims 1-5 and 7 were rejected under 35 U.S.C. § 103(a) in view of primary reference *Younis* (U.S. Patent Publication 2002/01688988) *Miyano* (GB 2238438) and *Sakami, et al.* (US Patent 4,315,332).

At the outset, Applicants rely at least on the following standard of law as it relates to obviousness. Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. While the sequence of these questions might be reordered in any particular case, the factors continue to define the inquiry that controls. If a court, or patent examiner, conducts this analysis and concludes the claimed subject matter was obvious, the claim is invalid under § 103. *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727; 82 U.S.P.Q.2D 1385 (2007), citing, in part *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966).

The Court in *KSR* continued: "A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. See *Graham*, 383 U.S., at 36, 86 S. Ct. 684, 15 L. Ed. 2d 545 (warning against a "temptation to read into the prior art the teachings of the invention in issue" and instructing courts to "guard against slipping into the use of hindsight" (quoting *Monroe*

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Auto Equipment Co. v. Heckethorn Mfg. & Supply Co., 332 F.2d 406, 412 (CA6 1964)))."

i. Claim 1

Claim 1 is drawn to a mobile radio that comprises:

"...a *GSM receiving unit*,

an analog-to-digital converter next in line for converting analog signals into digital signals,

a digital signal processor for reconstructing and processing the received signals,

a system controller for controlling the components of the mobile radio,

a real-time circuit comprising an oscillator and a display for displaying information, in which another receiving unit is arranged for receiving a time reference signal, the other receiving unit comprises an antenna for receiving time reference signals, tunable capacitors for tuning to the transmit frequency and an amplifier for amplifying the received time reference signal, ..."

The Office Action concedes that *Younis* fails to disclose the tuning capacitors and directs Applicants to *Sakami, et al.* The reference to *Sakami, et al.* as applied fails to cure this deficiency. Notably, the Office Action directs Applicants to column 1, line 1-15 for the disclosure of variable capacitance diodes. These diodes are exchanged for a condenser to realize a preset radio set in a small form factor. This allows the radio to be carried in a (wrist)watch. However, there is no disclosure of using these diodes for tuning a transmit frequency. Accordingly, Applicants respectfully submit that the applied art fails to disclose at least one feature of claim 1.

For at least the reasons set forth above, Applicants respectfully submit that because the reference fails to disclose at least one feature of claim 1, this claim is patentable over the applied art. Moreover, claims 2-7, which depend from claim 1 are patentable for at least the same reasons.

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Applicants do not concede the propriety of the combination of references and reserve their right to address the propriety of the combination if proper and necessary in future correspondence.

Conclusion

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, the fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:

NXP Incorporated



by: William S. Francos (Reg. No. 38,456)

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